

FCC MAIL SECTION

Federal Communications Commission

FCC 99-140

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DISPATCHED BY

In the Matter of

Biennial Regulatory Review -- Amendment of
Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95,
97, and 101 of the Commission's Rules to
Facilitate the Development and Use of the
Universal Licensing System in the Wireless
Telecommunications Services

WT Docket No. 98-20 ✓

Assessment and Collection of Charges for FCC
Proprietary Remote Software Packages, On-
Line Communications Service Charges, and
Bidder's Information Packages in Connection
With Auctionable Services

WT Docket No. 95-69

SECOND REPORT AND ORDER

Adopted: June 10, 1999

Released: June 15, 1999

By the Commission:

I. INTRODUCTION

1. In this *Second Report and Order*, we adopt changes to our rules and procedures that will allow for public access through the Internet to application and licensing information in our Universal Licensing System (ULS) for wireless services. We provide for similar access via the Internet to application data in our auctions database. Specifically, we take the following actions in this order:

- We authorize public access through the Internet to ULS, as soon as technically feasible, for purposes of viewing application and licensing information. This will significantly enhance the ability of the public to access public record information regarding wireless licensees at reduced cost. To ensure the security and reliability of the database, however, parties filing applications or notifications in ULS will continue to dial directly into the Commission's Wide Area Network (FCC WAN) by means of an 800 or 900 number.
- We authorize access on the Internet to short form applications (Form 175) in our auctions database, as soon as technically feasible. This will enable interested parties and the public to review application data pertaining to bidders in ongoing auctions, as well as application data from previously completed auctions. Auction participants will continue to use the 900 number to access the FCC WAN for purposes of bidding electronically and reviewing updated auction round results.

II. BACKGROUND

2. The Commission initially developed the FCC WAN for purposes of conducting auctions pursuant to our statutory authority under the Omnibus Budget Reconciliation Act of 1993.¹ The FCC WAN is used by bidders and other interested parties to file auction applications electronically, bid electronically, access auction round results, and query the FCC's auction database. Users may access the WAN from their personal computers at remote locations by dialing a 900 number. Since 1995, the WAN has been used in over 20 auctions to license a variety of services, including Personal Communications Service, Specialized Mobile Radio, Local Multipoint Distribution Service, and Location and Monitoring Service.²

3. Since 1997, the Wireless Telecommunications Bureau has expanded use of the FCC WAN to provide for electronic access to ULS, the new automated licensing system now being deployed to integrate all existing wireless licensing systems and databases and to facilitate electronic filing of all wireless applications.³ ULS has been used for all post-auction licensing since December 1997, and we have also converted numerous existing wireless services (including Part 22 Paging and Radiotelephone Service, Personal Communications Services, Wireless Communications Services, and Cellular Radiotelephone Service) to ULS for purposes of ongoing application and licensing activity. Conversion of all remaining wireless services to ULS will occur in stages during the remainder of 1999.⁴ As a result, use of the FCC WAN for ULS purposes will continue to increase.

4. In a *Report and Order* adopted July 21, 1995, the Commission established a fee of \$2.30 per minute for 900 number access to the FCC WAN for purposes of bidding electronically, reviewing other applications (e.g., FCC Form 175 or FCC Form 600 applications), and obtaining available licensing database information.⁵ The Commission also established charges for obtaining the

¹ Pub. L. No. 103-66, Title VI, § 6002(b), 107 Stat. 312, authorized the Commission to award licenses by competitive bidding where mutually exclusive applications for initial licensing are received for subscriber-based services for compensation. See 47 U.S.C. § 309(j).

² In the Commission's first two spectrum auctions in 1994, the Commission used an outside contractor to provide remote electronic bidding support.

³ See Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98-20, *Report and Order*, 13 FCC Rcd. 21027 (1998) (*ULS Report and Order*).

⁴ See "Wireless Telecommunications Bureau Announces New Universal Licensing System Filing Procedures and Revised Application Forms Effective February 16, 1999," *Public Notice*, DA 99-314 (rel. February 10, 1999).

⁵ Assessment and Collection of Charges for FCC Proprietary Remote Software Packages, On-Line Communications Service Charges, and Bidder's Information Packages in Connection with Auctionable Services, WT Docket No. 95-69, *Report and Order*, 10 FCC Rcd. 10769 (1995) (*Fee Order*).

proprietary bidding software needed to make use of the system's electronic bidding functions. These fees help to recover the costs of developing, maintaining, and upgrading the FCC WAN.⁶

III. DISCUSSION

A. Internet Access to ULS Application and Licensing Information

5. Because the FCC WAN is a private network accessible only by direct dial-up through an 800 number or 900 number, ULS is not presently accessible through the Internet. When ULS was initially designed, the Commission elected not to provide access to ULS through the Internet for several reasons. First, providing access to ULS by dial-up to the FCC WAN affords the user more reliable access to the system because access is not dependent upon a third-party Internet service provider (ISP). Direct access also enables Commission staff and technical support personnel to identify and diagnose technical problems experienced by users, and often to solve them in real time by direct contact with the user. Second, the FCC WAN offers superior security and privacy for applicants and licensees engaged in electronic filing because the information they submit is less susceptible to interception or tampering by unauthorized persons. In addition, because the FCC WAN generates a record of all communications with FCC systems, the Commission can more readily monitor and investigate any possible unauthorized system use, further enhancing system security and integrity.

6. For all of the above reasons, we continue to believe that reliance on the FCC WAN for purposes of electronic filing in ULS is a sound approach. Nevertheless, we note that since ULS was designed, significant advances have occurred in Internet technology, and particularly in addressing concerns regarding the integrity and security of data transmitted over the Internet. In our ULS proceeding, a number of parties, including the Federal Communications Bar Association, have filed petitions for reconsideration of the *ULS Report and Order* to make ULS accessible via the Internet.⁷ Some parties have also expressed concern about having to pay on-line fees to review license and application information in ULS.

7. We conclude that it is in the public interest to allow Internet access to the ULS database for purposes of public access to application and licensing information.⁸ Unlike electronic filing, the application and license search functions of ULS are limited to reviewing publicly available data in read-only form, and do not involve submission or alteration of applications or licensing information.

⁶ To date, however, the Commission has not used the 900 number for access to ULS, because ULS is still in development. Instead, access to the FCC WAN for ULS license and application searches has been provided by means of an 800 number, for which there is no charge to the user.

⁷ Petition for Reconsideration of the Federal Communications Bar Association, WT Docket No. 98-20, filed January 13, 1999, at 20-23. *See also* Petition for Reconsideration of BellSouth Corporation, filed January 13, 1999, at 10-11; American Association of Railroads Comments at 7-8; Winstar Comments at 2. In addressing these petitions, we note that this is a procedural issue that does not require notice and comment under the Administrative Procedure Act. *See* 5 U.S.C. § 553(b)(3)(A).

⁸ This will include access to the Commission's Antenna Structure Registration database when it is integrated into ULS later this year.

As a result, there is significantly less likelihood of unauthorized access or tampering if we allow Internet access to ULS for this purpose only.⁹

8. In addition, allowing the public to search for information in ULS via the Internet will vastly enhance the public's access to such information while significantly decreasing the cost. For example, anyone with a computer and an Internet account will be able to access ULS to stay abreast of the status of licenses and applications. In addition, the public will be able to use the Internet to access the mapping capabilities of ULS. The Geographic Information System (GIS) feature within ULS enables users to create customized maps to view market areas of geographic-based licenses and site locations of site-based licensees.¹⁰ Additionally, GIS will allow users to query by call sign or view all licenses authorized to operate within a specific range of frequencies.

9. For the time being, however, we will not require electronic filing of ULS applications via the Internet, as some parties have proposed. While allowing Internet access for filing purposes would confer some benefits, we continue to believe that considerations of system security and reliability reasonably outweigh these benefits in the ULS context. Some commenters point out that we have recently begun to allow Internet filing in some contexts other than ULS, such as electronic filing of rulemaking comments and tariffs.¹¹ These initiatives are smaller in scope than ULS, however, which accounts for over 90 percent of the Commission's licensing activity. Because many of the technical issues relating to Internet reliability and security are beyond the Commission's control, we prefer to develop experience with Internet filing on a gradual basis rather than immediately mandating it in ULS.

10. We also note that maintaining ULS electronic filing on the FCC WAN will not require applicants and licensees to pay per minute on-line charges. Because application filing is subject to a separate fee schedule under Section 8 of the Communications Act,¹² access to the FCC WAN for purposes of electronic filing of applications is not subject to on-line charges. As a result, filers in ULS are charged only the filing fee and regulatory fee appropriate for their radio service and application purpose, and are not charged for on-line access while filing.

11. We emphasize that our decision with respect to ULS does not preclude the future possibility of allowing filing via the Internet. We direct the Wireless Bureau to monitor developments

⁹ We have similarly provided for Internet access to broadcast application and licensing data. See Streamlining of Mass Media Applications, Rules, and Processes, *Report and Order*, MM Docket No. 98-43, 13 FCC Rcd. 23056 (1998) (*Mass Media Streamlining Order*), at ¶ 18.

¹⁰ For site-based licenses, the GIS will display transmitter locations only for those sites that are in the ULS database. Thus, in services where licensees are required to notify the Commission only regarding external sites that define its service area contour (e.g., cellular, Part 22 paging), GIS will not display internal site information.

¹¹ See Electronic Filing of Comments in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd. 11322 (1998); "Common Carrier Bureau Implements Electronic Tariff Filing System," *Public Notice*, DA 97-2491, 12 FCC Rcd. 19714 (1997). The Mass Media Bureau is also developing an electronic filing system that we anticipate will include Internet filing capability. See *Mass Media Streamlining Order* at ¶ 14.

¹² 47 U.S.C. § 158.

in this area, and delegate authority to the Bureau to establish Internet filing access to ULS if it concludes that considerations of system reliability and security associated with Internet-based filing in ULS can be adequately addressed.¹³

B. Internet Access to Auctions Information

12. As in the case of ULS, access to the Commission's auction system occurs by direct dial-up to the FCC WAN, which is used primarily by bidders to file auction applications, bid from remote locations, and access auction round results. Requiring auction participants to use the WAN to access the auction system serves the same objectives as in ULS because system security and reliability are particularly important to the conduct of electronic bidding from remote locations. As in the case of electronic filers in ULS, electronic bidders benefit from more reliable access to the auction system, and from the ability of the Commission's technical support staff to address any technical problems experienced by bidders quickly so that bidding activity is not disrupted. In addition, because use of the WAN allows for the recording and tracking of each individual bid in an auction, the Commission staff can verify the legitimacy of all bids and more readily investigate allegations of bidding irregularities.

13. While we believe these benefits justify our continuing to use the FCC WAN for short-form filing and on-line bidding purposes, we believe that application data in our auctions database can be made accessible to the public via the Internet without diminishing the auction system's security and reliability. Currently, persons seeking to review Form 175 applications (other than their own) must access the system by means of the 900 number and pay on-line charges to do so. We believe that Form 175 application data should be accessible on the Internet in read-only form, just as long-form applications and similar data will be in ULS. As in the case of ULS, we also delegate authority to the Wireless Bureau to increase the Internet accessibility of the auctions database if it concludes that considerations of system reliability and security are fully addressed.

¹³ Allowing filing in ULS via the Internet does not necessarily require eliminating use of the FCC WAN for filing purposes. One alternative would be to give applicants the option of filing through either the WAN or the Internet.

IV. ORDERING CLAUSE

14. Accordingly, IT IS ORDERED that pursuant to the authority of Sections 4(i) and (j), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and (j), 303(r), and 309(j), this *Second Report and Order* is ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Magalie Roman Salas".

Magalie Roman Salas
Secretary